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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,010	12/15/2005	Volker Stanjek	WAS0749PUSA	1206
22045 7590 05/28/2008 BROOKS KUSHMAN P.C. 1000 TOWN CENTER TWENTY-SECOND FLOOR SOUTHFIELD, MI 48075				
EXAMINER				
GILLESPIE, BENJAMIN				
ART UNIT		PAPER NUMBER		
1796				
MAIL DATE		DELIVERY MODE		
05/28/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Note

Continuation of Section 11: Applicants' remarks filed 5/15/2008 with respect to the rejection of claims 25 and 28 as being indefinite under 35 U.S.C. 112 2nd paragraph have been considered but are not persuasive. Applicants argue that the language "substantially free" is commonly understood in the art, as exemplified by *Verve LLC, v. Crane Cams, Inc.*, 65 USPQ 2d 1051 (Fed. Cir. 2002), however this is drawn to the clarification of a close approximation of an already defined limitation, i.e. uniform thickness, and is not relevant in determining whether the language of claims 25 and 28 is indefinite; no relative basis has been set forth for claims 25 and 28. Applicants go on to argue that it is impossible to have a composition that is 100% free of water, and the language is intended to reflect an amount that prevents premature cross-linking reactions, however this is definition of "substantially free" is not reflected in the instant claims or specification, and therefore the examiner maintains the rejection under 35 U.S.C. 112 2nd paragraph.

Applicants' remarks filed 5/15/2008 with respect to the rejection of the claimed invention over the prior art have been considered but are not persuasive. Applicants argue that the claimed invention is not anticipated nor rendered obvious by the prior art because Muller et al and Majolo et al fail to teach with certain specificity the claimed amount of (A1):(A2), while satisfying the limitation "more than 80% of the chain ends of the prepolymers... are terminated with alkoxysilyl groups," the examiner disagrees.

Currently the claimed invention is only limited to a prepolymer having more than 80% alkoxysilyl termination, i.e. a range of termination between 80-100%, which both Muller et al and

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Majolo et al satisfy by matching the claimed upper end point of 100% which is represented by the 100% consumption of NCO groups in terminating with alkoxysilyl groups.

Furthermore, while it is noted that the examples of the prior art do not teach the diol:polyol ratio claimed by applicants, it is important to note that the prior art is not only limited to what is disclosed by the examples, and column 2 lines 65-68 to column 3 line 1 clearly teach the presence of diol in relevant amounts. Furthermore, the examiner notes that when a claimed invention is drawn to a narrow range, the prior art is required to teach with sufficient specificity amounts that satisfy said range, however the examiner takes the position that the breadth of applicants' claimed (A1):(A2) range, i.e. 0.7:1 to 7:1 extends beyond what the examiner considers a "narrow range," and no criticality has been established by applicants regarding the criticality of said range. As a result, the examiner maintains the disclosure anticipates the claimed invention based on the breadth of applicants' claimed range.

/BG/

/VASUDEVAN S. JAGANNATHAN/

Supervisory Patent Examiner, Art Unit 1796